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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,694	09/10/2003	Bob Glickman	F-8178	7523
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LERNER GREENBERG STEMER LLP			EXAMINER	
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			ART UNIT	PAPER NUMBER
			3609	
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			08/15/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/659,694

Applicant(s)

GLICKMAN, BOB

Examiner

CHIA-YI LIU

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the virtual securities broker" in Claim 4. There is insufficient antecedent basis for this limitation in the claim. Examiner believes that the claim 7 properly depend from claim 5 or 6 which provide antecedent basis. For the purpose of examination, it will be assumed that claim 7 depends from claim 5.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Mastman et al. (US 2002/0133447)

As Per Claim 1

Mastman discloses:

searching for publicly traded securities (stocks) and a history of dividend yields associated with the respective securities, see paragraph 0010, lines 3-5, and paragraph 0004, lines 4-12 (parameter #13)

sorting (Database spreadsheet can perform sorting) the securities (stocks)

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relative to an amount of the associated dividend yields, and rating the securities based on the associated dividend yields, see paragraph 0004, lines 4-12 (parameter #13) and paragraph 0005, lines 5-10.

placing a plurality of the securities (stocks) into the exchange-traded fund, see paragraph 0005, lines 11-14. (ETF is a portfolio of stock)

weighting the individual securities within the exchange-traded fund in accordance with the associated dividend yields, paragraph 0010, lines 12-14 and paragraph 0004, lines 4-12 (parameter #13)

offering for sale shares in the exchange-traded fund, see applicant's own admitted disclosure: Background of the Invention, paragraph 0005. (ETF shares could be traded on an exchange)

#### As Per Claim

Mastman further discloses searching for a price-earnings ratio associated with the respective securities (stocks), and weighting the respective securities in the exchange-traded fund with the price-earnings ratio and the amount of the associated dividend yields, , see paragraph 0010, lines 3-5, and paragraph 0004, lines 4-12 (parameter #5, #13)

#### As per Claim 3

Mastman further discloses a computer-readable medium having computer-executable instructions for performing the method, see paragraph 0004, lines 1-4.

#### As per Claim 4

Mastman further discloses a computer programmed to perform the method, see paragraph 0004, lines 1-4.

Claim 10 is rejected under 35 U.S.C. 102(e) as being anticipated by Millard et al (US 2002/0007335).

#### As per Claim 10

under control of the client system, prompting a user for input selecting from available securities with a history of dividend distribution, see paragraph 0340. (Every stock, unless new on the market, has history)

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under control of the server system, searching the network for securities matching the user's search parameters and transmitting search results to the client system, see paragraph 0340 (Search tools display result inherently)

under control of the client system, displaying the search results to the user and prompting the user for further action, the further action including further input for a new search and placing a purchase order (making transactions) for a security or a collection of securities having a history of dividend distribution satisfying the user's search parameters see paragraph 0340. (User could always search/input again)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Herz et al. (5,758,257) in view of Millard et al (US 2002/0007335)

As Per Claim 5

Herz ('257) discloses:

a database containing customer information with identification and preferences related to the customer, see column 51, lines 8-12 and column 67, lines 21-24.

a client system for prompting the customer to select a predefined set of dividend-yielding securities (stocks) or to input parameters for a new search defining a new set of dividend-yielding securities, see column 51, lines 13-18.

a server system programmed to search, via the Internet, a current state (recent trade prices and volumes) of the predefined set of dividend-yielding securities (stocks) or within the parameters entered in said client system by the customer and to transmit a search result to said client system, see column 51, lines 13-14.

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Herz ('257) does not specifically disclose a purchase processing system adapted to receive a purchase order for the securities. Millard ('335) teaches a trading platform that allows customer to purchase securities (making transaction), see paragraph 0348.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz's ('257) invention to include a purchase processing system for the benefit of enabling immediate purchases after reading search results.

As per Claim 6

Herz ('257) further discloses server system is configured to search for stocks including a stock price and a history of dividend distributions, said client system is configured to display to the customer a percentage dividend yield defined by a percentage ratio of past dividend distribution (dividend size) over a given period of time relative to the price of the security, see column 51, lines 13-18. (Percentage dividend yield is a mathematical modification of dividend distribution and stock price)

As per Claim 7

Herz ('257) does not specifically disclose a computer-readable medium for implementing the virtual securities broker, Millard ('335) discloses a negotiation and settlement of securities transaction over electronic network. (The system website act as the virtual securities broker), see paragraph 0034 and Fig. 1.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz's ('257) invention to include a computer-readable medium for implementing the virtual securities broker, for the benefit of facilitating security purchases.

Claims 8-9 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Herz et al. (5,758,257) in view of Mastman (US 2002/0133447)

As per Claim 8

Herz ('257) discloses:

upon receiving an initiation request from a customer, checking a database containing customer information with identification and preferences related to the customer, see column 51, lines 8-12 and column 67, lines 21-24.

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prompting the customer to select a predefined set of dividend-yielding securities (stocks) or to input parameters for a new search defining a new set of dividend-yielding securities, see column 51, lines 13-18.

searching for securities matching the parameters associated with the set of dividend-yielding securities, see column 51, lines 13-18.

placing a plurality of the securities into the exchange-traded fund and offering for sale shares, see applicant's own admitted disclosure: Background of the Invention, paragraph 0005. (ETF security shares could be traded on an exchange)

Herz ('257) does not specifically disclose weighting securities in accordance with the associated dividend yields, and rating the securities. Mastman ('447) discloses weighting securities (stock) in accordance with dividend and produce a rating for each security, see paragraph 0010, lines 12-16 and paragraph 0004, lines 4-12 (parameter #13)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz's ('257) invention to include weighting and rating securities in accordance with the associated dividend yields for the benefit of providing a better characterization of stocks.

As per Claim 9

Herz ('257) does not specifically disclose a price-earnings ratio associated with the respective securities. Mastman ('447) discloses price-earning ratios associated with the respective securities (stocks), see paragraph 0010, lines 3-5, and paragraph 0004, lines 4-12 (parameter #5)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz's ('257) invention to include price-earning ratio, for the benefit of allowing greater flexibility to refine searches.

Claims 11-14 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Millard et al (US 2002/0007335) in view of Herz et al. (5,758,257)

As per Claim 11

Millard ('335) does not specifically disclose selecting either a predefined selection of dividend-yielding securities or a specific set of parameters for defining a new

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selection. Herz ('257) disclose selecting parameters and retrieving information (dividend) about stocks, see column 51, lines 3-5, 13-17.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Millard's ('335) invention to include selecting parameters for the benefit of getting a narrower and more specific search result.

As per Claim 12

Millard ('335) does not specifically disclose a percentage yield defined by a percentage ratio of past dividend distribution over a given period of time relative to a price of the security. Herz ('257) disclose dividend distribution (dividend size) and stock price, see column 51, lines 13-16. (Percentage dividend yield is a mathematical modification of dividend distribution and stock price)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Millard's ('335) invention to include a percentage yield for the benefit of getting a narrower and more specific search result.

As per Claim 13

Millard further discloses a computer system interconnected and programmed to perform the method, see Fig. 1.

As per Claim 14.

Millard further discloses a computer-readable medium having computer-executable instructions for implementing the method according to claim 10, see Fig. 1. and Fig 20 (Search/Directory)



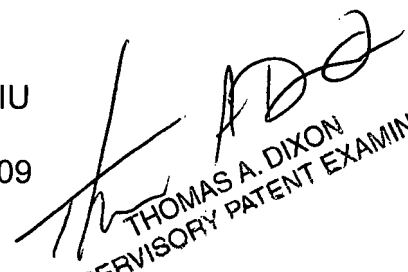
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHIA-YI LIU whose telephone number is (571) 270-1573. The examiner can normally be reached on Mon-Thur alternating Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TOM DIXON can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner  
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